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In re Application of
JOUVE et al.
Application No.: 10/589,112
PCT No.: PCT/FR05/50116
Int. Filing Date: 22 February 2005
Priority Date: 24 February 2004
Atty. Docket No.: 034299-000708
For: SPECTROMETRY DIAGNOSTIC
ELECTRONIC CIRCUIT AND
ASSOCIATED COUNTING SYSTEM

DECISION

This decision is issued in response to applicant's "Request to Correct Filing Receipt and Notice of Acceptance under 35 U.S.C. 371 and 37 CFR 1.495" filed 01 October 2007 and applicant's "Petition to Acknowledge Original 35 U.S.C. 371 Application Filing Date as Official Filing Date" filed on 04 March 2008, which are being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 10 August 2006, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 29 August 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 07 August 2007 and a 35 U.S.C. 371 completion date of 07 August 2007.

On 01 October 2007, applicant filed "Request to Correct Filing Receipt and Notice of Acceptance under 35 U.S.C. 371 and 37 CFR 1.495."

On 04 March 2008, applicant filed "Petition to Acknowledge Original 35 U.S.C. 371 Application Filing Date as Official Filing Date."

DISCUSSION

Applicant requests a corrected filing date (or 371(c) date) from 07 August 2007 to 10 August 2006. The actual filing date of the present application is the international filing date, i.e., 22 February 2005. (See 35 U.S.C. 363) The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01)

Applicant states in their present petition that a declaration was received at the United States Patent and Trademark Office on 10 August 2006. A review of the present application reveals that the declaration and power of attorney filed 10 August 2006 is not located therein. Section 503 of the Manual of Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

The accompanying copy of the post card receipt identifies the application by applicant, title of invention, and attorney docket number. The receipt itemizes, among other materials, the requisite basic national fee; a copy of the international application; a preliminary amendment; and an executed declaration. The receipt is stamped "Rec'd PCT/PTO 10 AUG 2006" across its face and is sufficient to indicate that the declaration was in fact received in the Office on 10 August 2006. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 10 August 2006 is proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 10 August 2006. (See MPEP section 1893.03(b)).

CONCLUSION

Applicant's request under 37 CFR 1.181 for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 29 August 2007 is hereby **VACATED**.

The application has an international filing date of 22 February 2005 under 35 U.S.C. 363 and a date of 10 August 2006 under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of 10 August 2006 under 35 U.S.C. 371(c) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt

that identifies a filing date of 10 August 2006.

Thereafter, this application will be referred to its appropriate Art Unit.

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